Courts Reform (Scotland) Act 2014

2014 asp 18

PART 5

CIVIL APPEALS

Appeals to the Supreme Court

117 Appeals to the Supreme Court

In the Court of Session Act 1988, for section 40 (appeals to the Supreme Court: appealable interlocutors) substitute—

"**40 Appeals to the Supreme Court**

(1) An appeal may be taken to the Supreme Court against a decision of the Inner House mentioned in subsection (2), but only—
  (a) with the permission of the Inner House, or
  (b) if the Inner House has refused permission, with the permission of the Supreme Court.

(2) The decisions are—
  (a) a decision constituting final judgment in any proceedings,
  (b) a decision in an exchequer cause,
  (c) a decision, on an application under section 29, to grant or refuse a new trial in any proceedings,
  (d) any other decision in any proceedings if—
    (i) there is a difference of opinion among the judges making the decision, or
    (ii) the decision is one sustaining a preliminary defence and dismissing the proceedings.

(3) An appeal may be taken to the Supreme Court against any other decision of the Inner House in any proceedings, but only with the permission of the Inner House.

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(4) In an appeal against a decision mentioned in subsection (2)(c), the Supreme Court has the same powers as the Inner House had in relation to the application under section 29, including, in particular, the powers under sections 29(3) and 30(3).

(5) No appeal may be taken to the Supreme Court against any decision of a Lord Ordinary.

(6) But subsection (5) does not affect the operation of subsections (1) and (3) in relation to a decision of the Inner House in a review of a decision of a Lord Ordinary.

(7) In an appeal to the Supreme Court under this section against a decision of the Inner House in any proceedings, all prior decisions in the proceedings (whether made at first instance or at any stage of appeal) are open to review by the Supreme Court.

(8) This section is subject to—
   (a) sections 27(5) and 32(5),
   (b) any provision of any other enactment that restricts or excludes an appeal from the Court of Session to the Supreme Court.

(9) This section does not affect any right of appeal from the Court of Session to the Supreme Court that arises apart from this section.

(10) In this section—

"final judgment", in relation to any proceedings, means a decision which, by itself or taken along with prior decisions in the proceedings, disposes of the subject matter of the proceedings on its merits, even though judgment may not have been pronounced on every question raised or expenses found due may not have been modified, taxed or decerned for,

"preliminary defence", in relation to any proceedings, means a defence that does not relate to the merits of the proceedings.

40A Permission for appeal under section 40

(1) An application to the Inner House for permission to take an appeal under section 40(1) or (3) must be made—
   (a) within the period of 28 days beginning with the date of the decision against which the appeal is to be taken, or
   (b) within such longer period as the Inner House considers equitable having regard to all the circumstances.

(2) An application to the Supreme Court for permission to take an appeal under section 40(1) must be made—
   (a) within the period of 28 days beginning with the date on which the Inner House refuses permission for the appeal, or
   (b) within such longer period as the Supreme Court considers equitable having regard to all the circumstances.

(3) The Inner House or the Supreme Court may grant permission for an appeal under section 40(1) or (3) only if the Inner House or, as the case may be, the Supreme Court considers that the appeal raises an arguable point of law of

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general public importance which ought to be considered by the Supreme Court at that time.”.

Commencement Information

I1 S. 117 in force at 22.9.2015 by S.S.I. 2015/247, art. 2, **Sch.** (with art. 5(2)(3))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 5A and cross-heading inserted by 2020 asp 9 s. 9
- sch. 1 para. 2(g)(h) inserted by 2021 asp 16 s. 15(8)